



Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036-6797
+1 212 698 3500 Main
+1 212 698 3599 Fax
www.dechert.com

LINDA C. GOLDSTEIN

linda.goldstein@dechert.com
+1 212 698 3817 Direct
+1 212 698 0684 Fax

December 22, 2020

VIA ECF

Honorable Carol Bagley Amon
United States District Judge
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Bartlett v. Societe Generale de Banque au Liban SAL*, No. 19-cv-0007 (CBA)(VMS)
(E.D.N.Y.): Response to Plaintiffs' Request for Pre-Motion Conference Seeking Leave to
Amend the First Amended Complaint

Dear Judge Amon:

We write on behalf of the Defendants identified in the margin¹ to respond to Plaintiffs' December 15, 2020 letter seeking leave to amend the First Amended Complaint, ECF No. 173.

Given the currently pending request for a stay of all proceedings, an amendment of the First Amended Complaint at this juncture would be premature. In addition, our December 8, 2020 letter, ECF No. 167, explains why this Court should certify its November 25, 2020 decision (the "November 25 Opinion") denying in part Defendants' motions to dismiss the First Amended Complaint, ECF No. 164. If the Court certifies its decision for appeal, amendment of the First Amended Complaint would be inappropriate for the following reasons.

First, the addition of Lebanese Canadian Bank ("LCB") as an additional defendant could prejudice the current Defendants' ability to obtain certification of the November 25 Opinion from the Second Circuit under 28 U.S.C. § 1292(b). Because any reversal of the November 25 Opinion would not address Plaintiffs' claims against LCB, the requested amendment of the First Amended Complaint could affect the Second Circuit's analysis of whether consideration of the appeal would materially advance the ultimate termination of this litigation. *See Capitol Records, LLC v. Vimeo, LLC*, 972 F. Supp. 2d 537, 551 (S.D.N.Y. 2013) (whether appeal materially advances ultimate termination of litigation is factor courts place particular weight on). Plaintiffs have offered no reason why any claims against LCB could not be asserted in a separate

¹ The Moving Defendants are (1) Société Générale de Banque au Liban S.A.L., (2) Fransabank S.A.L., (3) MEAB Bank s.a.l., (4) BLOM Bank S.A.L., (5) Byblos Bank S.A.L., (6) Bank Audi S.A.L., (7) Bank of Beirut S.A.L., (8) Lebanon & Gulf Bank S.A.L., (9) Banque Libano Française S.A.L., (10) Bank of Beirut and the Arab Countries S.A.L., and (11) Fenicia Bank s.a.l.



Honorable Carol Bagley Amon
December 22, 2020
Page 2

Complaint, which could be assigned to your Honor if it were filed in this Court and would not risk prejudice to Defendants' contemplated appeal.

Second, Plaintiffs' contention that additional factual material should be added to the First Amended Complaint so that the Second Circuit "may have the benefit of the most up-to-date complaint," ECF No. 173 at 2, fundamentally misconstrues the nature of appellate review. An amended complaint would not properly be part of the record on appeal. *See Fonar Corp. v. Domenick*, 105 F.3d 99, 102 (2d Cir. 1997) (materials not before district court when it ruled on issue subject to review are not properly part of record on appeal). To the extent that Plaintiffs wish to add new "allegations concerning certain Defendants' conduct," ECF No. 173 at 1, that were neither submitted to this Court nor addressed in its November 25 Opinion, those could not be considered by the Second Circuit. The designation of Defendant Jammal Trust Bank as an SDGT in 2019, on the other hand, was presented to the District Court in Plaintiffs' memorandum of law, as noted in the November 25 Opinion. ECF No. 164 at 6. Should the Second Circuit accept an interlocutory appeal of the November 25 Opinion, that memorandum of law will be part of the appellate record pursuant to Fed. R. App. P. 10(a). Any request for additions to the appellate record would have to be addressed to the Second Circuit pursuant to Fed. R. App. P. 10(e).

Respectfully submitted,

DECHERT LLP

By: /s/ Linda C. Goldstein
Linda C. Goldstein
Dechert LLP
1095 Avenue Of The Americas
Three Bryant Park
New York, NY 10036
212-698-3500
Email: linda.goldstein@dechert.com

Michael H. McGinley (*pro hac vice*)
Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
215-994-4000
Email: michael.mcginley@dechert.com

*Attorneys for Defendants BLOM Bank SAL
and Fransabank SAL*



Honorable Carol Bagley Amon
December 22, 2020
Page 3

MAYER BROWN LLP

By: /s/ Mark G. Hanchet
Mark G. Hanchet
Robert W. Hamburg
Mayer Brown LLP
1221 Avenue of the Americas
New York, NY 10020
212-506-2500
Email: mhanchet@mayerbrown.com
Email: rhamburg@mayerbrown.com

*Attorneys for Defendant Banque Libano
Française SAL*

MAYER BROWN LLP

By: /s/ Andrew J. Pincus
Andrew J. Pincus
Mayer Brown LLP
1999 K Street, NW
Washington, DC 20006
202-263-3220
Email: apincus@mayerbrown.com

By: /s/ Christopher J. Houpt
Mayer Brown LLP
1221 Avenue of the Americas
New York, NY 10020
212-506-2500
Email: choupt@mayerbrown.com
Attorneys for Defendant Bank Audi SAL



Honorable Carol Bagley Amon
December 22, 2020
Page 4

DLA PIPER LLP (US)

By: /s/ Jonathan D. Siegfried
Jonathan D. Siegfried
Douglas W. Mateyaschuk II
DLA Piper LLP (US)
1251 Avenue of The Americas
New York, NY 10020
212-335-4925
Email: jonathan.siegfried@dlapiper.com
Email: douglas.mateyaschuk@dlapiper.com

*Attorneys for Defendants Byblos Bank SAL,
Bank of Beirut and the Arab Countries SAL,
and Lebanon and Gulf Bank SAL*

ASHCROFT LAW FIRM, LLC

By: /s/ Michael J. Sullivan
Michael J. Sullivan
Brian J. Leske
Ashcroft Law Firm, LLC
200 State Street, 7th Floor
Boston, MA 02109
617-573-9400
Email: msullivan@ashcroftlawfirm.com
Email: bleske@ashcroftlawfirm.com

*Attorneys for Defendant Société Générale de
Banque au Liban S.A.L.*



Honorable Carol Bagley Amon
December 22, 2020
Page 5

SQUIRE PATTON BOGGS (US) LLP

By: /s/ Gassan A. Baloul
Gassan A. Baloul
Mitchell R. Berger
Squire Patton Boggs (US) LLP
2550 M Street, NW
Washington, DC 20037
202-457-6155
Email: gassan.baloul@squirepb.com
Email: mitchell.berger@squirepb.com

*Attorneys for Defendants MEAB s.a.l. (sued as
Middle East Africa Bank SAL) and Fenicia Bank
s.a.l.*

SHEARMAN & STERLING LLP

By: /s/ Henry S. Weisburg
Henry Weisburg
Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022
212-848-4000
Email: hweisburg@shearman.com

Attorneys for Defendant Bank of Beirut SAL